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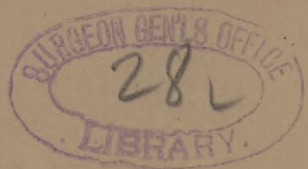
MORAL INSANITY

IN RELATION TO

CRIMINAL ACTS.

BY DR. J. PARIGOT.

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MORAL INSANITY

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CRIMINAL ACTS.

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Our desire being to investigate certain forensic difficulties bearing upon philosophical desiderata concerning volition, and wishing also to demonstrate the absolute necessity of a coexistence of physical with psychical signs to allow a determination of the real mental state of persons supposed to be insane, or simulating insanity, let us state at the outset what are the general principles upon which our opinions are founded.

The Divine law which regulates our intercourse with our fellow-creatures, and even with all nature, is given to us in two words of the Christian faith—*Love and Charity*. These words contain the sub-

stance and qualities of human justice.* Some philosophers have considered justice as a sort of mystical idea. We believe it to be simply a function of our conscience, the source of our rights and duties in the social order. Every man feels that his conscience has been made the seat of that eternal principle by which the universe is regulated. Therefore is it that justice is not only found in books of laws made by nations differing in religion, manners, and habits, but that it exists all the world over as a peculiar feeling of our soul, which enables man in every part of the globe to judge of the moral value of his acts.

Man is complete only when he is conscientious; and moral liberty being one of his attributes, it is clear that he is responsible when he has been able to choose between right and wrong; else liberty ought not to be said to be a power that enables us to act in spite of a known motive of action.

The general principles deducible from these views are, as to the insane:

1st. That love and charity require the exercise of the best means to cure their infirmity. ("They are unable to help themselves; we must actively do for them what we would desire to be done for us.")

2nd. That they ought never to be punished for offences or crimes committed under the influence of their malady; and as to the public:

3d. That society has a full right to employ the most effective means, consistent with civilization, to guard itself against crimes committed by insane persons.

If the possession of conscience distinguishes man in the whole world, it must nevertheless be observed that it is more by sensibility of feelings than by intellectual supremacy, that man understands what he has to do to live in society. Insanity, in this respect, begins only when a man is no longer fit to live completely free, because he has lost the *common sense* on which social order is founded. We have long ago, on several occasions, tried to establish the fact that the insane are very rarely completely bereft of that sensibility of feelings; and that a peculiar family life, under a certain amount of personal and social liberty, with proper therapeutical treatment, is the best and cheapest means for a prompt cure.† But we are ready to admit that when a lunatic

* The ancient Greek philosophers of the school of Socrates, and especially that great man, have shown first, that justice was regulated by unwritten laws, of a moral nature, inspired by the Divinity.

† A very few maniacs and diastrophical subjects must be held in confinement on account of the aggressive form of their disease.

retains moral notions, it is more by a sort of reflex action of an anterior and past state of his conscience, than by its actual capacity.

In previous writings, we have defined *human mind* to be the manifestation or outward evidence of the soul by organic and vital agency; thus mind is, and can only be understood to be, subject to the material conditions of life, though remaining the unique expression of our spiritual nature. We know nothing about the essence of things, and, of course, know nothing, therefore, of the intimate nature of life, disease, and insanity; but our definition explains why a mental affection is at the same time spiritual and corporeal, and accounts for the excellence or decadence of our mental faculties according to general health, age, and education.

Reason and morality are terms much employed in courts of justice; medically, they imply the liberty of conscience and the sanity of its material instruments, in so far, at least, as these must not be entirely unfit for their functions. Activity, though it is the principal faculty leading to our duties towards God and humanity, and implied in morality, we hear little spoken of even at this moment, (October, 1861,) when school education is the subject of public advertisements; when we read in public papers discussions of the problem for educators to solve, namely: how properly to combine the true training of the intellectual faculties, and that of the moral sensibilities and physical powers. Not a word is said about teaching *how to act* in the most important circumstances of *public and private life*; which tuition is, nevertheless, the fundamental and most serious part of education.

We will see further, that the pathology of volition has been also forgotten, and sometimes denied; much more, volition, although being the proper basis of *legal philosophy*, has been little studied even by jurists. For our purpose,

Morality may be defined as the quality of justification of a man's conduct; on the contrary, immorality points to a want of regard for justice, with a knowledge of offending against written and moral laws; and this quality constitutes the malice of the offender. Now, a lunatic has no regard for justice, because his conscience is absent or darkened; and his malice, when he has employed any, is but the reflection of his anterior state of mind. Illustrations of this are very common, and of easy observation among insane persons.

When there is no free will or possibility of choice in actions, we are able to pronounce that volition is vitiated in its essence, both corporeal and spiritual; human activity no longer exists, and disappears with conscience. Now, the doctrines of ancient and modern philoso-

phers agree on the existence of an active principle of the soul. The Greeks admitted the *νοῦς*, but recognized at the same time the *θυμὸς* as an active power of the mind; thus volition has always been known to be a peculiar mental function, perhaps the most important of all, as having its origin in the great principle of spontaneity and activity.* It is clear that, in order to obey the laws of God and society, we must be able to *choose* between what is called right and wrong; for it is insufficient to know and distinguish good from evil, if our will cannot sanction and execute our judgment.

The difference between the sensitive and intellectual powers on one side, and volition on the other, is easy to detect. We are not responsible for our thoughts, feelings, or sensations; the most absurd ideas may form themselves in our imagination; we are not answerable for them; they concern only our understanding, and are, therefore, *subjective*; we reject them, and that is all; but it is not the same regarding our acts, formed entirely under a process similar to that of our ideas, but not identical; we are forcibly responsible for their result, because there is an *objective* relation that binds us to the external world, and imposes upon us moral obligations. We are responsible, first, when we are conscious or in possession of ourselves, ("*sui compos*;") secondly, when the act is premeditated with a known and adequate motive, and when the result is foreseen; thirdly, when the act, after being judged good or bad, is resolved to be put in practice; and fourthly, when execution has accomplished the intended purpose.†

* There is some diversity of opinion on this subject. A few writers think that volition is only the result of an *increased desire*; that understanding and feelings may come to a state of activity or desire. It is on that account, says Dr. Flemming, in his excellent work, (*Pathologie und Therapie der Psychosen*, 1859,) that physiology has renounced to search for a particular organ of volition, but has tried to find the instruments transmitting the influxes of the two cerebral principles to the excito-motor system. He continues, page 33 of the same work, by the remark, that this later question remains without answer, because it appears that volition will not be recognized as a faculty of the human mind.

A great number of German, French, and English, and especially our late friend the celebrated Guislain, are of a different opinion. Dr. Baillarger maintains that "La volonté peut, à l'état sain, se saisir de nos capacités et nous faire méditer, puis la volonté exaltée peut conduire à l'extase, ou bien la volonté peut laisser errer, ou vagabonder notre intelligence et nous conduire à la rêverie." — *Annales Médico-Psychologiques*.

The recent theory of Mr. Bain, who attributes all our actions originally to chance, the pleasant being continued, and the useless rejected, appears inadmissible to us.

† The axiom of jurisprudence, (*in lege cornelia*.) "*consilium enim unius cujus-*

Without entering into metaphysical explanation on the origin of a diseased volition, independent of an apparently sound judgment, it will be clear that if the mind be diseased by exaltation, depression, or perversion of one or more of our faculties, the effect of that disease is to deprive us of our liberty of action.

An insane person says sometimes, "*I know I did wrong, but could not help it, because at the moment I was obliged to do it.*" Now that shows that some* process of volition, quite independent of the understanding, has been vitiated. In general, it may be said that there exists a *chasm* or *void* between intelligence and volition when morbid.

We think that four divisions might include all criminal acts and offences committed by the insane:

1st. Cases in which the lunatic is under a general delusion.

2d. Cases in which the insane person is rational on every subject but on his particular delusion.

3d. Cases in which the insane is devoid of either thought, feeling, or will.

4th. Cases in which the lunatic possesses his intellect, and knows his diseased state of mind, even to a moment before a sudden attack, or after the fit is over, when he gives account of his infirmity.

In the course of this essay the second and fourth divisions only are to be spoken of.†

The momentary loss of reason, or intellectual error, short of duration, has little or no effect on the mind; but when error is protracted,

que, non factum, puniendum est;—Dolus pro facto accipitur," "l'intention est réputée pour le fait"—is not applicable here. An insane person has no will nor intention.

* Mr. Billod, in a memoir inserted in the 10th volume, page 23, of the *Annales Médico-Psychologiques*, gives the following analysis of volition:

"Trois ordres d'éléments constituent la volonté.

1er Ordre.—A, Génération de la volition;

B, Génération des motifs;

C, Délibération;

D, Conséquence de la délibération ou détermination;

E, Aperception ou connaissance de la volition.

2nd Ordre.—Vouloir (c'est à dire mettre en rapport le 1er avec le 3me ordre.)

3me Ordre.—Exécuter par telle ou telle faculté, par telle ou telle fonction.

† As to the first and third divisions, *maniacs* may, and very often do, act very improperly, in consequence of delusion, or sometimes of a too rapid succession of thoughts, that prevents them from knowing what they are about. *Demented* are generally perfect automata—just as if everybody else but themselves had the power to direct their acts.

it may in certain cases trouble and pervert the intellectual power, the will, and instincts. Even when error, mania, or folly are imitated a long time, (sometimes night and day for months, by criminals,) the same result may overtake the miserable feigner. In these cases, error and vice have a morbid and material influence on the brain and nervous system, altered moral and physical symptoms are brought to light, and at last, insanity will declare itself. The difficulty, here, is to ascertain the transient period. In order to determine it, we should know the organism of the brain, the laws of its phenomena, and how the brain becomes incapable of its mental functions. Medico-psychological science has answered, as nearly as it is possible, some of these difficult questions, or recognized the impossibility of penetrating the mysteries of nature. At all events, physicians have thought that the best solution could only be given by medical and moral investigation; but in the course of things, it was found that a very learned and respectable body of men, who make pure philosophy and law their special object of study, have interfered, assuming that they knew better how to solve metaphysical difficulties relating to judicial matters on insanity. Now, if the study of the human frame has something to do with insanity, (and it is pretty clear it has,) lawyers and pure philosophers ought to resign their pretensions; but they are unwilling to do so, because, in common with laymen generally, they think insanity to be more a moral infirmity than a corporeal disease. In courts, lawyers often find fault with physicians, and give them to understand that they do not know the meaning and bearing of laws. Certainly, in its abstract notion, law must be considered perfect, and obeyed until amended or abolished on account of its deficiencies; but physicians are bound to show in what these laws oppose natural facts; and this has been done since a few years. Laws on insanity were made when insufficient knowledge and theoretical notions did not permit legislators to master their subject; and now, it is said, with severity, but with truth, that some of these laws are unjust; that they lead to the grossest mistakes, if not to judicial crimes. In no country that we know of, are legal means of ascertaining insanity adapted to the actual state of science. It is painful to say, nevertheless our duty to state the fact, that, in spite of the efforts of learned and renowned physicians, unhappy lunatics have suffered the penalty of death; nothing could avail against the absurd prejudices of public opinion, and the cruel, and sometimes shameless, interference of the daily press, when "*human justice was pursuing its course.*"

Among a great number of false notions prevailing both in Europe

and America, resulting partly from inappropriate laws, and partly from prejudice, ignorance, and want of practical familiarity with insanity, some are here noticed:

1st. That melancholy or lypemania, epilepsy, and diseased will, (diastrephia,) are not mentioned in any code of laws.

2d. The pretension of some courts that there should exist a *legal insanity*, to be determined without, or against, the opinion of physicians.

3d. The opinion held by jurists, that the mind, in its pure essence, is susceptible of a disease which the body need not share. (Some medical men entertain and support the same false notion.)

4th. That a dispossession of a faculty is no proof of insanity.

5th. That, notwithstanding an insane person committed a wrong act while laboring under the idea that he was redressing a supposed grievance or injury, or under the impression of obtaining some public or private benefit, he is liable to punishment.

6th. That a jury of laymen (not medical) should be allowed to decide the sanity or insanity of a person.

7th. That a jury of laymen is to decide whether a party had or had not a sufficient degree of reason to know that he was doing something wrong.

8th. That the presence of a delusion having no positive and clear connection with an alleged crime is no evidence of lunacy.

9th. That acts, considered in their nature, and their mode of execution, bear no character or sign of the existence of insanity.

10th. That eccentricity, imbecility, waywardness, are never signs of insanity.

11th. That monomania has no connection with mental disease.

12th. That monomania (if considered as a partial insanity) does not absolve the offender.

13th. That the state of insanity must be permanent to admit of irresponsibility.

14th. The terms employed in the French and Belgian codes of laws concerning the specification of insanity are defective, and insufficient in the actual state of science.*

15th. That moral insanity is not a mental disease.

16th. The neglect of physical symptoms in medical certificates for

* Dr. De Castelnau, in his recent work, *Rémarques Physiologiques et Légales sur l'Interdiction*, has shown that the French law concerning the interdiction of civil rights is contrary both to civilization and equity.

law purposes; want of appreciation of the necessity of their description (if they exist) in moral insanity and in simulation of a mental disease. (This error is common to jurists and medical men.)

We must confess there exists between medical men and lawyers a remarkable spirit of opposition; an infirmity which we should, perhaps, renounce first ourselves. Why it should be so, is difficult to say. But regarding the medical profession itself, we should also come to an understanding amongst ourselves, when there is some judicial and medical difficulty to solve, and never to enter the witness-box with a prejudiced mind in favor of the party who has called us in. Unhappily, men living by liberal professions are sometimes disposed, from motives of self-interest, to jealousy and mutual opposition; the effect of which, in courts of justice, must necessarily be, to throw distrust and ridicule on us. But what is worse for the administration of justice, is, that learned judges, ingenious barristers, and medical officers are very often at variance, because they do not admit the same definitions of terms, especially those of moral insanity. A confusion arises as well out of the different value given to words as out of the loose employment of general terms.

The consequences of such a state of things are often to be deplored; the jury not having understood the real state of the case, many judgments have been rendered for which the defendant, right or wrong, might as well have tossed up for the verdict.

One of the objects of the present paper is to try to dispel some obscurity concerning the *diagnosis of moral insanity*, including homicidal, suicidal, and impulsive mania and monomania, in which moral faculties are said to be affected.

What is the pathological meaning of moral insanity? Dr. Pritchard says that it is a disorder of which the symptoms are only displayed in the state of the feelings, affections, temper, and in the *habits and conduct* of the individual, or in the exercise of those mental faculties which are termed the *active* and moral power of the mind. This definition shows clearly that it principally concerns the faculty of *willing and choosing*. An eminent and celebrated American writer, Dr. Ray, adopts this definition; and Dr. Beck says, that besides the impulse to murder, there is also included an irresistible impulse to commit injury, or to do mischief of all kinds. Here, then, we have the full perversion of will and instincts well defined by writers whose authority is accepted everywhere. Drs. Bucknill and Tuke, in their excellent work on *Psychological Medicine*, certainly the best lately written in Europe, say, that the diagnosis of moral insanity is of the utmost importance,

and often of the utmost difficulty ; but they think that physical symptoms, standing by themselves, are of little importance in the diagnosis. This we cannot admit, and will endeavor to prove the necessity of their presence both in moral insanity and in the simulation thereof, for the diagnosis of the real nature of the case.

Recent analysis of the functions of the mind has shown that its several operations can be divided into five faculties : 1st. Sensation. 2d. Moral feeling or emotion, (both of the receptive order.) 3d. Intellectual power. 4th. Volition, (the only faculty according to the signification of the word;) and 5th. The natural instincts. The three last belong to human activity ; it has been found, also, that any trouble, exaltation, depression, abolition, or perversion of any of our mental functions, when accompanied (as always is the case, more or less, evidently,) with physical symptoms, was sufficient as good evidence before courts of justice. In fact, the study of psychologico-forensic medicine and its progress are, in a certain measure, the result of several cases of moral insanity which attracted great notoriety. The perusal of those trials is of the greatest importance for our studies. It may be seen that a great number of the accused were in a very extraordinary mental condition; the *unity* of their mind being in a certain measure destroyed, since they were in a struggle, trying to collect their ideas and feelings in order to master wild impulses ! In almost each trial, in which moral insanity is the plea of defence, the prosecution maintains that such a disease does not exist, and brings forth examples and books to sustain this assertion: Lawyers not being able to distinguish the disease by its morbid symptoms, pretend that criminals are more or less *morally insane—id est*, wicked, dissolute, and perverted. On the other side, the defence has often resorted to this plea of insanity as a remaining chance of acquittal; some physicians, moved by a desire to wrest from the scaffold some prisoners that appeared to them more deprived of reason than malicious and wicked, have gone too far in their so-called philanthropic endeavor. The measure we propose, further on, with regard to medical reports on lunatics, would at once do away with such an autocratic power, against which the reaction of lawyers and courts is partly directed; but there are other causes of misunderstanding to be explained.

Some people understand by the word moral the opposite of physical; others rank moral insanity as the extreme of moral perversity; again, moral insanity is said to be an obliquity of mental perception as to the precise boundary of what is honest; some eminent writers speak of mental dynamics and of moral functions being solely affect-

ed. All these expressions may appear obscure, and at last the consequence of a want of precision in the diagnosis itself of these diseases has been, perhaps, the acquittal of a few offenders, but unhappily more often the condemnation and execution, as guilty criminals, of persons actually insane!

The fact of real insanity detected in acts and instincts, connected or not with other symptoms of mental disease, is admitted by all authors on psychological medicine. Unhappily, they have not insisted on its diagnosis by medical means, but have resorted to psychical symptoms generally; though they alluded sometimes, it is true, to pathological anatomy, when the state of that science permitted it. Now pathognomonic signs are not so difficult to discover as to have ever to be overlooked; we have had, in common with many physicians, occasions to trace them in numerous cases; and every medical officer connected with establishments for the insane recognizes the disease, whatever be the name under which it may be presented to him by persons who do not know its symptoms. I shall submit these pathognomonic signs.

I believe that there is no court in the world that has not had cases of moral insanity to try. What has happened? When physicians did venture to explain the special nature of those cases, they were almost each time mystified; scientific explanation was often quibbled, or dissected with metaphysical subtlety, but always resisted; and the *savant*, that tried to preach to a skeptical audience, was laughed at, if not rudely turned out of the forum. It may be read in Dr. Winslow's *Journal of Psychological Medicine*, that in a court of justice of England the late Lord Campbell said to three physicians, "*You may go home to your patients, and be more usefully employed there than you have been here!*" Another judge said to a physician, "*You might as well have staid at home and attended your patients!*" Another learned judge said, "*that his experience taught him there were very few cases of insanity in which any good came from the examination of medical witnesses!! their evidence sometimes adorned a case, and gave rise to very agreeable and interesting scientific discussions; but, after all, it had little or no weight with a jury!*" These curious opinions, given by learned judges, sitting on their benches of justice, confirm what we said about the pretensions of jurists on medical subjects; but it is to be hoped the time will come when such words will never more be heard falling from judges, for the honor of magistracy at least! And now, we regret that sometimes misunderstandings should exist between learned men, who, in the name of justice, come together to vindicate truth.

In spite of many discussions, held in medical societies and academies, doubts concerning the theory of moral insanity, for legal purposes, have not yet been resolved. The reason of it may lie in the fact that if people consider moral insanity from the point of view of its flagrant attacks and of its terrible results on society; if, at the same time, the criterion of knowing right from wrong has been employed as a test, then the logical inference is, that such acts must be repressed and their perpetrators punished. But, on the other side, if physical and psychical symptoms agree in demonstrating a disease of the brain, then it must be evident to courts, juries, and lawyers, that the offender, at the moment he committed crime, had no power to control his will, nor to choose right from wrong; that he was insane, because he could not dominate a morbid impulse, or that he was not able to adequate his actions to a real motive. As for us, we consider such an offender, under the influence of mental ailment, as insane as the most demented of his fellow-sufferers! Another reason, warring against the admission of its existence, may be the sort of causation producing moral insanity. Physical and vital causes are admitted, but in the case of a pure moral causation the link with physical change is not so easily detected.

Some very learned alienists, too, do not admit these explanations relating to moral insanity. Dr. Delasiauve, the distinguished physician of Bicêtre, says that monomania is a disease of the *sentimental* order, in which feelings, affections, and instincts are diseased. Now, here human volition is completely forgotten, although a great function of our conscience; and that mistake appears to be owing to the idea that volition yields more easily to feeling and emotion than to judgment, with which it should have less affinity.

The fact of the words *moral* and *insanity* being joined together, is also sometimes the cause of another mistake, since the act of an insane person may be immoral, and have no relation to his moral feelings or affections.

Aberration of feelings, emotions, and understanding is only incidental in cases of monomania with reference to mad acts; hence all the inconvenient names of *moral insanity*, *mania sine delirio*, *impulsive insanity*, *manie raisonnée*, *folie morale*, *Gemüthskrankheit*, and a variety of other appellations, as dipsomania, pyromania, kleptomania, etc., etc.

The confusion resulting from a pure psychological misunderstanding has had an influence on the opinion of jurists; they doubted first the real morbid state of the offender, and were unwilling to declare

irresponsible the lunatics that were neither idiots, maniacs, nor demented. Unfortunately, Dr. Delasiauve in some measure supported their views on partial insanity; he said, in the conclusion of a memoir read before the celebrated Medico-Psychological Society of Paris, that "partial delirium and passions cannot be mistaken one for another, on account of the morbid line that separates them; that the insane are not responsible when delusion is evident; that also a presumed criminal is not responsible when his mono-delirium, although limited, is the motive of his crime; but when, on the contrary, the motive of the act *does not relate* to his peculiar delusion, that it remains to the judges to appreciate in what degree the influence of a *partial delusion* may diminish his responsibility." Here, then, the unity and solidarity of the mind is at stake, and the appreciation of soundness or unsoundness of a person is left to the arbitrary opinion of a judge—a man unacquainted with the numerous forms of insanity. Now, Esquirol said that the difference to be found in a mad-house and the world was only in a more accentuated shade of mad ideas, errors and passions, or propensities; metaphysical science finds also no line that separates reason from madness. The celebrated Lelut—member of the French Institute—says, in a memoir on insanity, "that in its beginning, insanity is still reason, as reason is already madness! That mental predisposition, which may be organical cause of insanity, consists (for the *moral or sentimental sphere*) in excessive irritability and sensibility; then appear strange desires, *perverted inclinations* and tendencies, bad passions, &c., (for the *intellectual sphere*;) they consist in want of attention, which leads to absence of mind, giving to the person an appearance of insensibility to external impressions; then a vicious association of feelings; ideas produce irregularity and discrepancies in words and phrases; or a too rapid association of ideas brings on confusion of speech, incoherence and unintelligible ellipses of thought; at last the symptoms of madness show themselves in false judgments, leading to wrong opinions, *determinations and acts* opposed to social order and morality." Well, if there is no psychical demarcation between reason and madness, why not have recourse to the physical one? It is admitted that it is necessary to compare the actual state of the individual to his previous state of mind and body, in order to appreciate the quantity or degree of existing differences; but if that person was a little eccentric, would not serious difficulties arise, unless physical symptoms could be ascertained? Every one may understand that, under such circumstances, lawyers tried to exclude physicians when cases could not be easily ascertained. "What,"

said an attorney for the crown, "a so-called monomaniac pleads guilty; he knows what he has done; he was aware of the penalty that his crime deserves; he knows even the law which forbids such an action, and now medical men come here pretending that such a man is not guilty!" The answer is this: If it is proved by the history of the case that there was no adequate motive; that the perpetrator of the crime was not in possession of his free-will; that an impulse forced him to the action; if anamnestic evidence is in his favor; if physical signs of insanity do exist—we say, that man being of unsound mind, no penal law can be applied to him; but it is your right to employ any means, consonant with civilization, that you judge to be the best to prevent any future accidents or hurt to anybody from his disease.*

Many jurists, and Dr. Delasiauve, ask these questions: What is free-will? Where are its limits? Can a man master his volition while he is in a violent passion? In similar cases, if he loses his free-will, is that man, according to the notions of alienists, accountable for his crime?

We are, we think, able decidedly to answer all such questions.

First, it is quite useless to search for an explanation of the *nature* of free-will in the condition that it has pleased God to place us on earth; moreover, this has nothing to do with insanity. We think human liberty or free-will may be considered as a moral power that man may acquire, by means of the principles laid down in his conscience, so as to free his mind of its material conditions; certainly that power is acquired *unequally*, and each of us does not reach the same degree of freedom. Some, under painful circumstances, remain subjects to necessity and its material laws; others, favored by education and special gifts, become more autonomic, that is, less subject to passivity, though never completely free. Thus free-will is never an absolute power, and has not the limits asked for; that is the reason why, according to circumstances, men, entirely sane in their mind, are more or less responsible before the laws; but again, this has nothing to do with insanity. Free-will cannot have any degree of perfection or imperfection in a madman, because his very state excludes the possibility of raising or entertaining that moral power. How can you require the application of a thing, the source of which is extinct? Why, it is that very material condition (in its worst failure) that deprives him of the means of enjoying liberty.

* In our opinion, such a person, even cured, ought never to be left free from the control of somebody, able to judge of his mental state.

Now passion, hatred, anger, animal and selfish inclinations, &c., do not in the least destroy our liberty and volition. Instantaneous madness may happen, but it is very rare; in these cases latent symptoms have not been observed—that is all. Decision has always, in one form or another, preceded action, and our conscience has approved or rejected our motives; this is so true, that criminals have confessed to have been obliged to get themselves under the influence of liquor, to be enabled to carry out their plans. In this case drunkenness is no more an excuse than passion could be; and will never be considered as an excuse, because free-will was purposely diminished or oppressed!

In insanity free-will no longer exists, on account of a material condition of the mind, and therefore good sense requires that such a condition should be ascertained medically; the argument of lawyers, that some monomaniacs have more or less liberty, for which reason they may be compared with criminals, is the greatest possible error. Physicians have often been asked, with a certain victorious air, if they had studied criminality or observed criminals. Some, not knowing the bearing of the question, answered, perhaps, from fear to be entangled in some metaphysical net, *We have not!* but it might have been said that there exists no affinity whatever between criminals and the insane; the question is *to be or not to be*—is insanity present, or is it not? Certainly criminals are liable to become insane, and idiots and imbeciles are often met with in prisons, but as far as conscience is concerned they cannot be compared. Taking, for instance, the case that may have an apparent relation with crime—that in which a lunatic knows his disease and regrets what he has committed—the intermittent nature of his attacks, their symptoms, the torture it causes to the mind, are evident proofs of the pathological state of the nervous system; in a word, all phenomena of the mind correspond to physiological facts, and these must be necessarily either normal or pathological.

In order to obviate some of these difficulties, we have proposed to give a particular name to that type of mental diseases which manifests itself in acts and general conduct.* I have named *Diastrephia* any morbid alteration of human will and instinct; the word is taken from *διαστρεφω*, to pervert, because perversion is the most common alteration of volition.

In our estimation, *Diastrephia* has the same relation to an act that

* Des Diastrephies de la Volonté et des Instincts au point de vue Criminel. Par le Dr. J. Parigot, Professor à l'Université de Bruxelles, Médecin en Chef et Inspecteur de l'Établissement d'Aliénés à Gheel. Bruxelles, 1856.

delusion has to a thought; they are two equal terms, indicating the error and guile of an insane person; but the first is much more important and prejudicial than the second, which concerns only our individuality. There is an obvious reason why the terms of such a sort of algebraic equation cannot be inverted; it is, that logic and grammar do not permit to express the delusion or delirium of an act meaning its folly or insanity. Diastrephia is a special perversion, only applicable to volition and instincts. By this distinction authors on pathology are able to classify that sort of infirmity.

From this point of view, insanity, considered in its true objective relation, furnishes us with a definition that meets better any form of insanity for forensic practice. It is no more to be said to be a total or partial deprivation of the power of reasoning and of distinguishing right from wrong, nor is the general character of insanity any longer an emotional trouble, as the celebrated Guislain called it; neither can it be said to be a disease of our perceptive faculties, with subsequent loss of judgment. All these phenomena are characteristics of certain orders of disease, but not applicable to all cases, and especially to those requiring forensic discussion. For law purposes, insanity might be defined *the loss of power of control either over one or more of our mental faculties, including especially the absence of free-will, demonstrated by moral and physiological symptoms.*

In a medical point of view, it is *an idiopathic or sympathetic disease of the brain, which interferes with the psychological and physiological functions of this organ.* From the stand point of administrative authority that has charge of preserving the peace and security of cities, towns, or villages, *insanity begins only when a patient endangers the community or his own life and property.**

We have not the slightest pretension to present a complete definition, since every one must fail to determine the nature of insanity. It has been tried to essentialize disease, but we must content ourselves to see the mean point where material and spiritual phenomena seem to oscillate; dynamic theories never will help us out of the obscurity. Considering these mixed phenomena, what we are certain of is, that if vitality confines itself to the conservation of individuals and species, if to attain this object nature employs sometimes brutal force and vio-

* A patient, although not dangerous to anybody, must, for his own sake, that is, to be cured, either be placed in an asylum or in a free-air establishment. I have seen cases in which sympathy or consanguinity have been the cause of a sort of contagion of insanity in families.

lence, we know also that intellectual life, by a contrary law to fatalism, tends to enlarge our animal affinities and to generalize the egoistical principle of our existence, by applying the rules concerning individualism to a larger circle of our fellow-creatures; and thus mind in its natural expansion becomes more free and apt to love and do charity, and finally it enables us to enter regions of spiritual life entirely unknown and imperceptible to our natural and material senses. *Fatality, brutal force, and slavery must give way to intelligence, charity, and liberty!*

From this I conclude that mutual reactions do exist between *soul, life, and matter*, and that it is in these reactions that we must look for the proper means to ameliorate our dispositions, and to cure our moral and physical diseases.

Everybody thinks that he is able to judge of the sanity of another person; people say *that man is crazy*, just as they would say, seeing a man falling from a certain height, *that must be a surgical case!* but is that vulgar appreciation sufficient for forensic and scientific purposes? Are simple affirmations of two medical men, or certificates saying only that a person is of unsound mind, sufficient to deprive a citizen of his liberty and property? Certainly not.

There is no doubt that, if mental lesions had always been accurately described, if physicians had not contented themselves, and magistrates been satisfied with, a few lines assuming, *ex virtute officii*, that a man was insane, without joining a full description of the symptoms observed, many errors, injustices, and miseries would have been spared.

We consider the office of a physician in courts of justice of a very high character and value. When he gives his opinions relating to life and liberty, is he not a magistrate of the highest order? The importance of his office elevates his soul and mind above all private interest; are we not real judges when we must decide between the prosecution and the defence? Certainly physicians are fallible; who is perfect? But they are certainly the most able to ascertain the truth in all difficult cases of the kind under consideration.

Medical witnesses or experts must, however, be very cautious; a physician before a court may explain the general ground of his conviction, but we think he is not called to lecture on medicine; therefore theories must be avoided; there is no time, nor is it the proper place, to discuss them. He must remember that every one of his words will be dissected by one or the other party, and therefore say what he means without superabundant words, or any intent of oratorical effect.

Now, supposing a judicial case in which immorality should have been the efficient cause of a mental disease, vice should have taken a morbid existence; the prosecution says that it is clear that the man is immoral, and is only trying to escape punishment; public opinion is against the plea of insanity, as being fallacious: here the physician will be the only one unprejudiced, and in spite of all influence, relying only on the unequivocal signs of material disease in connection with psychical symptoms, he settles the case to the satisfaction only of his conscience. Sudden violent and ungovernable passions are not symptomatic of diastrophia—*nemo repente furiosus*; it requires a certain time before passions or habits can inflict on us either a derangement of functions or a change in our tissues; the power, also, of unbridled organic propensities is of long and gradual effect on our mind. Again, after a long morbid reaction, error, ignorance, and vice may turn monomaniacal conceptions and affect our will, and consequently our doings; then comes the question, When does passion or vice make us insane? Where is the line or boundary of sanity consistent with these causes of disease? Certainly there is for any one of us a line or moral boundary we ought never to pass; every man must be careful of his weak side; and education should have for one of its objects to fortify our will in order to make up for *gifts* in which we may be wanting. Not only is this true, but the brain must be gradually trained to certain exercises: for instance, let us suppose that a man of ordinary abilities would, from the plough, begin and assiduously prosecute high and profound studies; he will first feel premonitory symptoms of overexertion and fatigue of his intellectual powers; but if he continues his foolish task, he will, perhaps very soon, say that some light from heaven has enlightened his spirit, and the man turns a perfect maniac. The so bitterly criticised theory of the celebrated alienist, Dr. Moreau, who pretends that madness depends on an over-activity of the brain, is justified in this case; and when he advances that if vital force accumulates in one of our organs, one of the results must be either a greater energy in its function, as an aberration and a malady, that learned physician is certainly right. It is in this case only that Dr. Moreau sees an affinity between genius and madness. His antagonist, M. Flourens, is a bad judge of the value of psychological works, since the learned perpetual secretary of the Institute has himself proved in a little compilation of his, entitled *Essai Physiologique sur la Folie*, that he did not pay much attention to that special subject.

Who has not felt, when struck by affliction, that insanity was near? It is not so difficult to find the limits of the power of our understanding

and feelings, but in judicial cases, to say positively whether that line is passed or not, requires the evidence of material signs. We have spoken of overexertion of the intelligence, but the same may happen with emotional sensibility; nervous persons must oppose as much as possible strong emotions and their effects, by keeping from all indulgence in affections or tender feelings, or from sights that might excite them. Again, knowing the nature of our will, when we are conscious of being irascible and prompt to rash determination, we are bound to check these propensities; if we do not, we put ourselves *voluntarily* in the predicament of a man that willfully intoxicates himself. None of us is doomed to fatality; necessity and autonomy are the result of our double nature; and according to our views, spontaneity always surpasses our instincts, conscience being a lever with which we may overcome the greatest difficulties; irresistibility is only the doom of *Diastrephia*, of which disease we shall proceed now to present the principal symptoms, both psychical and physical.

This paper having for its object to find a practical means of diagnosis for mental ailment, the writer thinks it not necessary to discuss whether the physical symptoms hereafter described have or have not a constant and exclusive relation with diastrephia. Inattentive observers will perhaps maintain that some instances of mental disease, and especially of moral insanity, are destitute of any physical symptoms. In numerous cases in which some alienists thought, and for a time maintained, that insanity left no trace in the brain, the microscope has shown that they committed an error. Indeed, presumption alone can insist that in the cases alluded to a function may be disordered and its organism undisturbed. Proof is out of the question, while simple logic shows that the recognition of such a state amounts to an impossibility. If here mere speculation be taken for granted, and scientific revelation be denied, diastrepthic cases must of course forever remain subjects of interminable and useless discussion between philosophers, lawyers, and physicians!

As insanity cannot exist without a certain form of disease, nor bodily health at the same time with madness, moral insanity, or diastrephia, being a disease of body and mind, must present several phases or stadia, as all infirmities do. The following description is a sketch of the general and special pathology of diastrephia.

Patients generally are quite different in manners, habits, ideas, language, and feelings to what they were before, or their bad habits, customs, or indulgences are more frequent, and become notorious. After a certain time elapses, after these, the premonitory symptoms,

patients are incapable of serious occupations; their will is impaired, instincts are perverted, and their power of control is lost; then appear sudden and irresistible impulses, unaccountable eccentricities and whims, desire of change, and sometimes delusions, or mono-delirium. It has been noticed that some take pleasure in telling untruth, and in deceiving people, when otherwise they were not loquacious; others are remarkable for their hardness of heart and selfishness. Some become maniacs, but oftener a profound melancholy is about them; then the disease assumes a character of deeper intensity; a profound immorality is often accompanied with consciousness of a propensity to crime; indifference or sometimes delight of doing evil; peculiar and strange mode of committing crime; ready admission of facts, however scandalous or horrible they may be; absence of grief and remorse. In all these cases, letters, memoirs, and other pieces of composition are of the greatest value to ascertain the state of the mind of the writers; their complaints are often of a delusive character.

Diastrephia may also run a milder course, and appear only in fits, variable in their remittency, intermittency, or periodicity; some patients have them coming on every month; I have seen one who remained sometimes one year free from attacks. During their lucid intervals they show almost no sign of insanity. Dipsomaniacs employ, then, much art in preventing people from remonstrating; for instance, they will feel offended, being a gentleman or gentlewoman, by being told that they were found dead drunk, etc. Some regret what they have done, and beg to be taken care of when their attack is coming.

No physician of our days denies the solidarity of *innervation, sanguification, and nutrition*. In man, those functions have a still greater importance in regard to the functions of the brain; any long process of *enervation* will operate a change in our organism, just as any deviation of nutrition will produce a morbid diathesis. Now, is it possible that a psychical lesion can exist without corresponding symptoms or morbid reaction? It is impossible; and is it not, then, self-evident that diastrephic cases might remain subjects of interminable discussions between philosophers and jurists, if the physicians came not forward to solve their doubts?

Our conviction on this important subject may, perhaps, make us appear to overrate the value of physical symptoms; but we must declare that it is *their coexistence* with mental aberration that gives them the advantages we have found in tracing them. The rules we insist upon must be applied, not only in diastrephia, but also in cases of simulation of insanity. Let the part of a feigner be played as well

as possible, emotions would be difficult, but somatical symptoms will be impossible, to imitate; even supposing that a simulator could long impose upon a skillful alienist, the result would probably be—real insanity. This is a curious and forgotten form of insanity, of which I intend to speak at length on some future occasion, wishing only for the present to state that its occurrence is the strongest proof of the power and influence of ideas and will on structure.

Amongst the physiological signs of diastrephia, one of the most important is the existence of a morbid action on the brain, produced by either a moral or physical cause. Of course, the brain being the principal seat of a material disorder, pain is reported by the patient to exist in different parts of the head. Other infallible symptoms depend upon the reaction of the diseased brain on the body; the outward characters of which are similar to that of organic pathological disorders; they present various features, the *ensemble* of which strikes, at first sight, a practical observer.

According to the excellent observations of Dr. Billod,* there exists sometimes a curious interruption of the power of volition on the muscular system. In spite of the patient, his limbs will not obey his purposes; the functions of the cerebro-spinal system may be also altered; hence pain in the limbs, muscular tremor, involuntary contractions, spasm of voluntary muscles, and several neuroses, called *proteiformes* by Dr. Cerise. The functions of the sympathetic nerve are also troubled; irregular innervation of arteries and veins producing latent disorders; irregular visceral and capillar circulation affecting the nutrition. Patients are emaciated; they feel a general heaviness over the whole body; their complexion is sallow; their skin harsh; sometimes they are feverish; the heat is increased; the pulse frequent; the tongue is furred, and the bowels permanently confined; sleep is impaired; they have almost no rest at all, nights; in cases connected with melancholia, there is a deficient sensibility of the peripheral ramification of nerves, producing anæsthesia.

Generally, there is an expression of pain in the features and appearance; the physiognomy is dull, and devoid in expression of kind feelings; it shows rather indifference or selfishness; the face is generally pallid; the stare is not vacant, but uncertain; sometimes the eye wanders about; tremulous movement of both eyes when the patient fixes them on any one; there is sometimes squinting; the pupils may be irregularly contracted; when there is irritation, the pupil is *contracted*; in

* Annales Médico-Psychologiques, vol. X., 1847, pages 15, 170, 317.

congestion, without irritation, it is *dilated*; in many cases there is a peculiar look, indicating shrewdness and a disposition to mischief. Patients are often occupied by an absorbing thought or passion; sometimes they announce strange desires and perverted appetites; in this case they keep alone as much as possible; generally their movements are sudden and quick, without aim; sometimes they will move round in a room with head and body bent downward, until some rash determination makes them suddenly change their position.

In diastrephia, the digestive functions are almost always out of order. Gastralgic pains and a voracious appetite are often to be met in the same person; dyspepsia augments their sufferings. In females, uterine affections may be the source of the moral disturbances. Complications may arise from essential local diseases, as gout and rheumatism. Some patients, of a neuropathic disposition, are perfect hypochondriacs, with hallucinations or perversion of feelings and instincts. Some, in spite of a suicidal propensity, are always occupied with anxiety about their health; they ask continually for medicines, and are afraid of doing something wrong concerning their bodily well-being. It may also be found that patients, although suffering, pretend to be very well; they despair of their reason only, and it preys on them night and day; their rest is short, and they get up in the morning unrefreshed; some wake during the night, ask for relief, or want to converse with somebody, in order to avoid terrific images.

When patients are interrogated on the motive of their conduct, or why they committed certain deeds, some cannot account for them; some say it was an impulse, a powerful desire, and so forth.* Some parties answer all questions with much accuracy and adroitness; generally they are exceedingly cunning in avoiding much explanation. Nothing can be found in others that betrays an affection of the mind, although suddenly overtaken by fits of phrensy. Some ask to be secured or taken care of, lest they would commit a crime. We have seen one that wanted to be under the guard of somebody, even if it should be a child. In the free-air establishment of Gheel, many cases proved the singular influence of continual moral restraint. A man who had resided in the village of Gheel, in the family of a peasant, never committed

* Diastrephia being a primary affection of our will, I do not call by that name the disease of the insane person who says, "*I heard a voice saying, Murder that man!*" or, "*Throw thyself from the window!*" This is hallucination. Nor is the name applicable in the cases of insane persons who refuse to eat, to dress, &c.; their will is not primarily vitiated, but their judgment.

the slightest offence, although under the influence of diastrophia in its worst form. I often visited him, and found the lunatic alone in the house, or sometimes under the guard of the children, the parents being at work in adjoining fields. Some people of his birth-place having reported to the burgomaster of his village that he (the patient) was cured, because they could not find any insanity in his *talking*, a medical report was required, and notwithstanding its conclusion, the administrative authority of his village set him at liberty. A few months after his return home, the man, let loose to his propensities, killed his wife, *in order to cook her feet*; and being disturbed in his horrible meal, he killed also the man that had accidentally called at his house and disturbed him. It is certainly a remarkable fact that, in the free-air system, insane people are almost entirely trusted to themselves, but that they are less tempted to yield to morbid impulses, on account of a sort of moral restraint that calls for their own reaction against bad impulses; in a population of more than a thousand free lunatics, the proportion of diastrophical cases is sufficient to prove the efficacy of the system.

When sudden attacks come on, the physiognomy of those patients takes a different aspect, under the influence of cerebral congestion: the face is colored, flushed; the language violent, and sometimes unintelligible; the gesture denotes great exaltation; when the crisis is over, they resume their former, generally sullen, appearance. Some authors have reported that lunatics in this case experienced a sensation of burning in some part of the body, that spreads over by degrees, and arriving at the brain, caused a momentaneous furor, something like that in epileptic fits; there is, no doubt, a great analogy between these two lesions. A young man who during eight years had suffered from epileptic fits, was since two years free from them, but had, instead, become subject to fits of diastrophia; then he wanted to kill somebody. Before his attacks, he often cried "Dear mother! be off, or I must kill you." The attack being over, he would say, "Now you may untie me. Ah! I have suffered much, but I am happy that I did not do any harm."*

* The state of an epileptic after the fit is over is well known to practitioners. Furor and hallucination are sometimes present for several days; but what is very remarkable, and very much like cases of diastrophia, is the spirit of aggression, spontaneously manifested, even towards persons for whom they have affection. Several physicians connected with asylums have been victims of the spontaneous furor of epileptics. The celebrated case in the annals of crime, that for which Count Bocarmé was executed, offers the curious coincidence, that it wa

Diastrephia ends generally in dementia and general paralysis, the symptoms of which run very often into each other; the likelihood of cure depends on the early attendance.

Such are the symptoms we have been able to observe in one of the largest asylums of Europe, during seven years.

All the cases cited in Drs. Bucknill and Tuke's Manual, from page 178 to 220, under the head of *Emotional Insanity*, are pure diastrephic cases, with exception of an emotional disease, erotomania. We observe that the authors do not share Ray's and Hoffbauer's opinions respecting the diseases of feelings and their effect on volition, which opinions they call *unqualified assertions*. They suppose that if there ever be, congenitally, a condition of the *moral sense* analogous to imbecility, it is impossible to apply it as a test to later acquired mental disease. The difficulty of *moral idiocy* is soon laid aside, when the real disease of volition is recognized in diastrephia. Moral idiocy or insanity are scientific puns.

The symptoms of diastrephia require time and leisure to be observed. It is not to be expected that a physician, suddenly called into a court of justice, would be able always to ascertain their existence on a first examination. Days and months may be necessary for such an important object. The only and best mode to study out a medico-legal difficulty of this nature is to have the so-called insane person sent to an asylum. Unhappily, such is not always the course taken in Continental Europe; judges and attorneys for the crown have their own medical officers, who, generally, have no practical knowledge of insanity. On the other hand, the defence of a committed offender tries to find physicians who will do their best for the defendant; each party, sometimes after a few visits to the jail, comes to fight a battle of words before the jury, and on that field truth and justice are often sacrificed. It would seem that many of the difficulties might be avoided by the selection of a medical jury or board, who should report on these cases; if pathognomonic signs of insanity were not sufficiently evident, that board would so state the case, and the accused might be sent before a court's jury, whose good sense generally decides for the best of the public interest. If the jury reported *insanity*, the patient should at once, by king's or people's authority, be confined in an asylum; and when cured, or believed to be so, he might be allowed to

after he had been *cured* of epilepsy that his perverted mind employed all its energy to discover *nicotine*. Several circumstances of his trial might lead us also to presume diastrephia.

live in a free-air, or otherwise less restricted institution, but not left without some surveillance, lest a new attack should come on.

To prove the propriety of the institution of such a medical board *de inquirendo lunatico*, let us cite an instance. It has been seen that kleptomania, although practiced by rich people, is not always a real case of diastrephia; moral depravity may have not yet effected the change of structure that constitutes a real disease. But let us take the case in which moral insanity was, nevertheless, pleaded on the ground that there was no adequate motive for rich people to resort to stealing. Now, a board of medical men, knowing that the desire to accumulate property by *all and any means* may exist, and finding no symptoms of a diseased brain, would, by committing the offender to exposure and punishment, soon put a stop to shop-lifting in the higher classes. We have here in our favor the authority of Dr. Bucknill, who says that, "in order to substantiate the existence of moral insanity, *previous** disease affecting the brain, followed by change of dispositions, ought to be satisfactorily proved."

The same difficulty of ascertaining the degree of mental capacity of *imbeciles* often exists in civil and criminal actions. Simplicity of mind, as the first degree of idiocy, is sometimes difficult to distinguish from mental weakness or dull understanding. But real simpletons, idiots unable to be left to themselves in society, do not understand the complex notions of social life, and their bodily frame presents a general condition of malformation and weakness; nothing but a sort of stoppage of bodily and spiritual evolutions can explain their case, in which, again, physical signs will be the best means of ascertaining it.

The necessity of a rule by which medical officers should be under the obligation to specify the existence of the moral and physical signs of insanity in their *affidavits*, is easy to be proved. The difficulties arising from summary legal reports, and the dangers resulting from it to individual liberty and property, are evident. In civil law-suits concerning the suspension of civil rights, the validity of wills, etc., it is sometimes necessary to have recourse to medical certificates of an anterior and past period of life of a person; if those certificates are defective on account of a want of a full description of symptoms, and only contain general statements instead of pathological facts, the fortune and liberty of persons are at the mercy of the ablest barrister. In a criminal prosecution it is necessary to know whether, at the time of the commission of the act, real symptoms of insanity existed;

* It ought to be *actual*—still better.

sometimes also proofs may be found in certificates showing that an old or chronic disease has existed, or that some of the parents or ancestors of the accused party were also insane. We have never seen a case of insanity in which the physical signs and intellectual symptoms of aberration of mind were equally wanting, so that we believe that there is no excuse for summary or general statements of insanity based only on a doctor's privilege.

How is it possible for jurists to form an opinion on the value of our diagnosis of insanity, when, in default of scientific description, we invent names for each case that may present itself before courts—as, *mania criminosa*, *lacerans*, *errabunda*, *sylvestris*, *saltans*, *furibonda*, *rebellis*, *pyromania*, *kleptomania*, *dipsomania*, *drapetomania*, *pseudomania*, *fanaticomania*, etc., etc.*

Now comes the difficulty, moreover, of the mono and poly-mania. The supporters of the theory of the independence of each faculty consider the mind as a compound of attributes, any one of which may be disordered separately; their opponents say that mind is a whole, and cannot, therefore, be divided or deranged in one part, *i. e.*, unless the whole is involved. There may be a prominent morbid idea in the same way that a peculiar aberration of the will may exist, but only as a symptom of a general disease. Now, what advantages may contending lawyers not take out of conflicting theories? Some physicians, on examining a man for whom insanity is plead, overlooking the faculty of volition, might declare an insane man perfectly sane. The supporters of the theory of oneness of mental faculties will declare unsound the same individual that the supporters of monomania would declare liable to be punished, because his offence had no relation to his special delusion! Dr. Falret said to the Academy of Medicine of Paris, that he defied any one to show him a single case of monomania without a general disease of mind and body; he went on asserting that the supporters of the monomania theory did certainly not know the means by which that disease could be ascertained. It is certainly true that diastrophia may exist in its incipient stage without having much deranged the general functions, and remained unnoticed by the friends of the patient; of course, meanwhile accidents may happen.

* We cannot resist here to quote the severe but deserved criticism to be found in a recent work on Malpractice and Medical Evidence, by J. J. Elwell, M.D., Member of the Cleveland Bar, (New York and Cleveland, Ohio, 1860.) "There indeed seems to be a name for every conceivable kind of mania except that of maniacal classification, or insane nomenclature."

Speaking of analogous cases, Dr. Marx relates that on one occasion a French judge said to him, "*If monomania be a disease, it ought, when it proceeds to capital crimes, to be cured in the Place de Grèves, i. e., by the guillotine.*" This cruel proposition, although repugnant, has something of truth in it; not as to the punishment inflicted on patients, but as to the necessity of repression of those crimes by a moral and religious education; by teaching young people first to obey and afterwards to command, especially their passions or desires; by stimulating our activity towards good. If repressive action be necessary, by prompt exposure of delinquencies leading to crime, by a repulsion of what is vicious, especially *psychopathia sexualis* in young people, and drunkenness in all classes; and last, not least, by an early attendance to premonitory symptoms of diastrephia.

There is no doubt that the plea of monomania has been an expedient to screen criminals, and that it has been carried sometimes to a ridiculous assumption. Eccentricity has sometimes been also a means of falsely arguing the charge of insanity against persons, with a design to deprive them of their fortune; it is true such crimes are rare. Eccentricity in many cases is only a form of spontaneity and freedom of mind, and therefore, by the scientific and experienced physician, easily to be distinguished from real symptoms of insanity. In countries where the sphere of activity is enlarged by public freedom and private energy, this distinction is very necessary; but here also diseases of volition must be more common. Dr. Woodward, of Massachusetts, observed that *one-fourth*, at least, of the lunatics committed as such belonged strictly to the class whose disorder was moral insanity.

Generally, in the beginning of mental derangement, some monomaniacal propensity may be remarked without the presence of prominent symptoms. The eminent writer and alienist, Dr. Forbes Winslow, in his last work on *Obscure Diseases of the Brain and Mind*, well points out the premonitory symptoms and the manner in which insanity steals upon the constitution. "This is precisely the time," he adds, "when medical aid is the most capable of being beneficial; but unfortunately the golden opportunity is too often neglected; diseased action is allowed to proceed unchecked until diseased organization has taken place, and the patient has become incurable."

In the premonitory stage of diastrephia, medical assistance will be of the greatest effect; therefore it becomes the general practitioners to prevent its further progress in the families where it may appear. When the disease is allowed to go on for a certain time, it becomes incurable, while in its beginning a medication appropriated to the

nature of the case, proper diet and occupations, and, if necessary, a certain moral restraint, would have the effect of curing that most distressing disease.

One difficult point remains to be elucidated regarding incipient cases of diastrophia, or rather, concerning the prodromic period preceding the disease itself. The question is this: When ought vice and immorality to be considered as the proximate cause and only motive of an act? or, When are they to be considered as a general cause of a lesion, either functional or structural? If hereditary predisposition or an accidental cause can clearly be traced, the case may be clear enough; but if a crime be committed by a notoriously immoral man, although he may be in all the conditions which might bring him *later* into a positively pathological state, the case appears more difficult to decide. Is the line or boundary between reason and insanity already passed or not? We say, if pathological symptoms cannot be traced *clearly*, if psychological symptoms are *doubtful*, a medical man cannot give his evidence in favor of insanity.

In the course of this paper we have tried to keep clear of a confusion about the unsoundness of moral sense, widely different from that unsoundness of mind being the result of a pathological condition of the brain. Physicians have certainly no wish to impose with ambiguities, by which juries or public opinion should be bewildered. Their differences of opinion depend only on the views they take in doubtful cases. What we have stated in the preceding pages are the principles we maintain, and we have long proved that they, at least, are disinterested ones. Now, they find a curious application in the well-known trial of a former broker of New York—Huntington.

Shortly after my arrival at Sing Sing, a book on this case was kindly lent me by one of the most distinguished physicians of the County of Westchester, Dr. Fisher, and through his influence, I was introduced to the convict in the State Prison.

From the mere reading of the case, it appeared to me that the subject of that trial had been either a lunatic afflicted with a special deficiency of moral sense, a great instinctive cunning and abilities to deceive, or that he was a lunatic under the influence of diastrophia. After my visit to the State Prison, I came to the conclusion that Huntington was neither the one nor the other.

After a few words exchanged, the convict himself declared that, in his opinion, he had never been properly insane, though he had felt *something wrong* going on in his head until two years since; up to that period he would have counterfeited any man's signature; he added,

that his habit of forging had come to a degree that, to get his *own money* out of a bank, he would have rather employed a forged paper! Being, of course, a perfect stranger to all parties who appeared in his trial, the opinion I venture is free from prejudice, and only liable to errors of my own.

It appears that, in the State of New York, a jury decides upon cases of insanity in civil law-suits, and in criminal cases when the plea of insanity is brought forward. The law of the State, as explained by the learned judge in the case of Huntington, does not admit moral insanity as an excuse for responsibility. Partial insanity, or monomania, would not absolve the party, unless it wholly deprived him of the power to distinguish between right and wrong. We have already objected to such a law, as not being in accordance with facts; but whatever the law may be, by another mistake, the jury is omnipotent in scientific difficulties, because, by its verdict, it may absolve the offender without further explanation, or condemn without knowledge of the scientific question; it may, therefore, in individual cases, correct the law, or go beyond it to either extreme. Now, I believe the jury was right in finding Huntington *guilty*, although some doubts might have been entertained on his sanity. The necessity of visible symptoms, moral and physical, establishes, as a consequence, that in their absence or obscurity, that offender could not be found irresponsible for the numerous forgeries he had committed.

I am, nevertheless, convinced of the good reasons that the honorable medical witnesses brought to establish their opinions. Both of them have shown profound knowledge and aptitude to discuss the most difficult points of philosophy and medicine; but the whole of their examination shows how much the physical symptoms were wanted to guarantee the existence of moral phenomena inclining towards insanity. It was with a certain anxiety that, reading the case, we searched for the moment when the doctors, pressed by the clever lawyer of the prosecution, would have reached their firm ground, *Pathology*; but we found that the few morbid symptoms were not sufficient either to impress the jury, or give a solid ground for the defence. However, the whole appearance of the case leads to the admission of a *prodromic stage of diastrophia*: Huntington's conduct and actions from a boy up to the time of his trial for forgery, bear the characteristic of some hereditary disposition to insanity; his diseases when a child might have had a depressive influence on his conscience, and later in his life, his temperament and propensities could hardly be checked by education. In prison, he was found indifferent to his situation when ac-

cused of a capital offence. His appreciation was defective. Was he simulating insanity? The prisoner maintained that he never had the intention of injuring anybody! still, he made use of his forgeries as the means of accumulating enormous sums of money, of which he spent a great part!

Huntington said to us, that it was a desire *that came over him*, and nothing in the world would have prevented him from forging paper; that his sleep had always been very short, but that, *since two years*, he slept better; that he had suffered from pain in the head; that he had felt blacksmith's sparks in the eye, and had been subject formerly to constipation of bowels and to external hæmorrhoids.

The learned counsel of Huntington explained the curious circumstances of carelessness of his client about his forgeries. The prisoner had made no arrangements to escape or prevent his arrest. Then the able advocate put several questions to the physicians.

1st. Whether, in their opinion, the defendant was sane or insane when the forgeries were committed?

2d. If insane, what was the nature and character of that insanity?

They answered, that it might be possible that all might take place as the result, almost, of unparalleled recklessness; but that from personal examination, and also from the testimony heard, they would say that those actions were actions of an insane man. I believe that answer unsatisfactory, because it admits, almost, the recklessness of the acts, and not their morbid nature, and that the testimony about Huntington's conduct and acts could not supply the wanted symptoms and characters of an actual state of insanity.

Cross-examined by the advocate of the prosecution, one of the medical gentlemen was asked this question:

Question: Upon what the prisoner said to you, and from what you judged from his appearance, would you pronounce him of unsound mind, *from your examination of him and from his appearance?* The question is direct, and points out the vital knot of the difficulty.

Answer: Not by his appearance, but from my examination of him, I should. The same physician said further, that the expression of the face of Huntington was not that of a villain, but that of an insane man. This was a general statement, but here a description of symptoms was wanted.

Now, the advocate of the prosecution very adroitly asked the doctor to explain what was the disease of his *physical organization* which prevented him from *resisting the tendency* to commit forgery? The lawyer had felt the weak side of a jury, unable to understand the un-

sound subtlety of the question, and the doctor was obliged to confess that it was impossible for him to give the *pathological anatomy* of the case!

It was useless to say, to satisfy the audience, that Huntington had certain symptoms indicative of congestion of the vessels of that part of the brain that furnishes the nerve to the eye; a steady pain in the head; that he could not sleep, and that his head felt as if there were trip-hammers beating. The advocate insisted upon knowing the relation of physical injury to a moral perversity, by repeating his question: *What urges the patient to forge paper?*

But was not the learned lawyer laying a sort of trap for his respected and intimate friend, as he called him in his exordium? Why, that unqualified question might have misled a less capable and learned physician to invent some new monomania connected with a forging impulse! The question was improper before a jury of laymen, because it had nothing special to do with the trial as bearing on primary causality in moral nature, and a *modus operandi* of structural pathology.

Another physician, also a learned professor in a medical school, deposed, with great accuracy, that he did not believe in the existence of monomania, because the mind was a totality, and that Huntington was insane, because his intellectual and moral nature, as well as his propensities, were diseased. Why were not objective proofs added to this declaration? Moreover, the honorable witness stated that, in this case, no *delusion* nor *hallucination*, but *moral insanity*, existed; that Huntington in his moral obliquity would, perhaps, in the West, have committed criminal acts with violence; but that, having *satisfied himself* that Huntington was insane, he thought it unsafe to say or foretell what particular act in criminal propensity an insane person would commit.

Although the verdict was, I believe, a just and right one, does it not appear injudicious that a jury of laymen, not understanding in general the value of a discussion on medicine, especially under the influence and conduction of lawyers, should be omnipotent judges of the case? With reference to the *knot* offered to the jurymen, they may very well have said among themselves, that, balancing the moral account of that broker, they found him *guilty*, whatever his state of mind might have been.

Now, the prisoner is in a certain measure cured, since he says he will never more commit forgeries; punishment, besides being *just* in every relationship, may here have reformed bad natural dispositions. Again, not believing in fatalism of matter, neither absolutely in that

of hereditary disposition—we say, let us employ our free-will and energetic attention to rebuke bad inclinations or desires, in order to check the progress or beginning of a mental disease.

I conclude this paper by submitting the following propositions:

I. That the disease called moral insanity is but an affection of the faculty of volition and instincts, always attended by physical and physiological symptoms.

II. That the name of moral insanity is defective, because it bears no relation to its cause, symptoms, and results; and that it misleads the opinions of the bar concerning crimes committed under its influence.

III. That the laws and rules concerning insanity, relating to civil and criminal cases, ought to be made conformable to the actual state of medical science.

IV. That no person ought to be considered as being insane, if physical and mental signs cannot be traced and ascertained.

V. That a reform concerning medical certificates is necessary, to insure regularity in obtaining from courts or judges orders to detain a person as being insane; that no such document be admitted, unless containing,

1st. All the anamnestic, physical, physiological, and mental symptoms of the case.

2d. The diagnosis and prognosis of the disease.

Now, until a reform be made, we beg the license to say to legislators and jurists, *Si habetis corpus nos habemus animam*.

